

BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:)
TELEGUAM HOLDINGS LLC,) **GTA DOCKET 16-03**
GENERAL EXCHANGE TARIFF NO. 1,) **ALJ REPORT**
TARIFF TRANSMITTAL NO. 26)

INTRODUCTION

1. This matter comes before the Guam Public Utilities Commission [“PUC”] upon the submission of an Amendment by Teleguam Holdings LLC [“GTA”] to Tariff Transmittal No. 26.¹ GTA filed an Amended Tariff Transmittal No. 26 on October 20, 2016.²
2. Although GTA has denominated this “Amendment” as a separate Tariff Transmittal (i.e., Tariff Transmittal No. 27), Tariff Transmittal No. 27 is merely an amendment to Tariff Transmittal No. 26.
3. The “Amendment” provides Individual Case Basis (ICB) arrangements for customers utilizing certain special access services which were approved by the Commission in Tariff Transmittal No. 26.³

BACKGROUND

4. In its Order dated October 27, 2016, the PUC approved GTA’s Proposed Tariff Transmittal No. 26. The Tariff instituted a Local Network Interphase [“LNIC”] charge, which the Commission found to be reasonable.⁴
5. The Commission also approved GTA’s request to replace the NECA Tariff with its own proposed rates for Metro Ethernet Services.⁵ However, the Commission required GTA to include provisions in its tariff for Metro Ethernet Services for “Individual Case Basis” (ICB).

¹ GTA Tariff Transmittal No. 27, Addition of Individual Case Basis Provisions to Special Access Section of General Exchange Tariff Section 7, filed December 27, 2016.

² Amended Tariff Transmittal No. 26 Revisions to Special Access Service, General Exchange Tariff, GTA Docket 16-03, filed October 20, 2016.

³ GTA Tariff Transmittal No. 27, GET No. 1, Section 7, H. SCHEDULE OF RATES AND CHARGES, G. Specialized Services or Arrangements.

⁴ PUC Order, GTA Docket 16-03, dated October 27, 2016, at p. 6.

⁵ Id.

6. GTA provides ICB rates for other services which it provides. In general, the Individual Case Basis Tariff, originally filed by GTA as Tariff Transmittal No. 11 on December 1, 2008⁶, allows GTA to provide a special rate when certain conditions are satisfied. ICBs can be offered to business or government customers having or ordering more than 10 access lines; ICB prices should be available to any similarly situated customer.
7. Here the parties agreed that ICB rates should potentially be available to customers of GTA that acquire special access services/Metro Ethernet Services. The Commission required GTA to include provisions in its Tariff for ICB within 60 days of the issuance of the PUC Order in this matter.⁷
8. In compliance with the PUC Order GTA submitted its Amendment to Tariff Transmittal No. 26 on December 27, 2016, which included an ICB provision in section 7 of General Exchange Tariff No. 1.⁸
9. On January 10, 2017, the ALJ received an email communication from President John Day of PDS, questioning whether GTA had published notice of the additional tariff change. PDS indicated that it would wish to file public comments regarding the proposed change.⁹
10. On January 10, 2017, the ALJ informed the Parties that additional notice or publication was not necessary and would not be required. These provisions had previously been discussed and ordered by the PUC in this Docket on October 27, 2016. The PUC had previously authorized the ALJ to approve the provisions on his own.¹⁰
11. However, PDS was welcomed to submit any additional comments to the proposed revisions. PDS was further notified that PUC intended to consider this matter at its January 26, 2017 Meeting.¹¹
12. On January 24, 2017, PDS submitted additional comments:¹² "GTA should amend its tariff language to include language that provides the following in order to comply with Sections 12204(c)(2), 12205(a)(c), and 12206 of the Guam Telecom Act:

⁶ GTA Tariff Transmittal No. 11, filed on December 1, 2008.

⁷ Id. at pgs. 6-7.

⁸ GTA Tariff Transmittal No. 27, GET No. 1, Section 7, H. SCHEDULE OF RATES AND CHARGES, G. Specialized Services or Arrangements.

⁹ The email from President John Day of PDS to GTA and ALJ Horecky, dated January 10, 2017.

¹⁰ Email from ALJ Horecky to GTA and PDS, GTA Docket 16-03, ICB Language Addition to Tariff Section 7, dated January 10, 2017.

¹¹ Id.

¹² Email from John Day, President of PDS, to ALJ Horecky, dated January 24, 2017.

- The submission and review of any ICB rates by the commission prior to implementation of these rates.
- A statement that the rates will be offered on a non-discriminatory basis to other customers.
- Inclusion in GTA's tariff of a listing of all services and ICB rates that are available from GTA. There is no need for GTA to provide customer information, just the service and the ICB rate that is available."

ANALYSIS

13. GTA has complied with the October 27, 2016 Order of the PUC in this Docket by including provisions in its tariff for ICB.
14. GTA modelled its ICB provision related to Special Access/Metro Ethernet service provisions after similar ICB provisions in NECA Tariff No. 5. The proposed ICB provision in Tariff Transmittal No. 26 is nearly identical to the provision in NECA Tariff No. 5.¹³
15. As is the case with NECA Tariff No. 5, GTA provides an ICB for the specific special access and Metro Ethernet Services offered under its tariff. Special rates and charges are provided for the specialized services. The ICB arrangement must be negotiated, and agreed upon, between GTA and its customers.
16. The ALJ finds that there is not a need to include the revisions suggested by PDS in the Tariff. The matters addressed in PDS comments are already sufficiently covered in the Guam Telecommunications Act of 2004.
17. By existing regulation, GTA is already required to submit any ICB rate to the Commission for prior approval: "...no rate, charge or assessment cost shall be established, abandoned, modified, departed from or changed without a public hearing and the prior approval of the Commission." 12 GCA §12116; PUC authority to determine what are just and reasonable rates requires any proposed ICB rate to be submitted to the Commission for approval. 12 GCA §12204 (a) and (c)(2); 12 GCA §12205 (c).
18. Similarly, existing regulations already require that rates or charges be offered on a non-discriminatory basis: "All rates, charges....in connection with telecommunications services provided by a telecommunications company shall be just and reasonable and shall not unreasonably discriminate between similarly situated customers." 12 GCA §12205 (c).

¹³ Email from GTA Legal Counsel Serge Quenga to ALJ Fred Horecky, dated December 27, 2016.

19. There can be no “listing of ICB rates.” That is because such rates are determined on a case-by-case basis.

RECOMMENDATION

20. Counsel recommends that the PUC approve GTA’s Amendment to Tariff Transmittal No. 26 the ICB provisions for special access services including Metro Ethernet Services.

21. GTA’s proposed Amendment to Tariff Transmittal No. 26 is in accordance with the provisions of 12 GCA § 12206(b). The ICB provisions in Section 7 of GET No. 1 should be effective upon approval by the PUC.

22. GTA should pay the PUC’s regulatory expenses and fees in this docket.

23. A draft Order is submitted to the Commission for its consideration.

Dated this 24th of January, 2017

Frederick J. Horecky
Administrative Law Judge